

January 15, 2009

The firms that participated in writing this letter, comprised of both Photogrammetrists and non-Photogrammetrist members of the American Society for Photogrammetry and Remote Sensing (ASPRS), would like to take this opportunity to express its high level concerns related to the draft *Guidelines for Procurement of Professional Aerial Imagery, Photogrammetry, Lidar and Related Remote Sensor-based Geospatial Mapping Services* (hereinafter referred to as the “*Guidelines*”).

Generally, we believe that the draft ASPRS *Guidelines* do not provide sufficiently definitive guidance on the subject matter necessary to allow Contracting Officers, Procurement Managers, Purchasing Agents, etc. to make clear and informed decisions, and for that reason, the ASPRS *Guidelines* fails in its essential and intended purpose. It is clear from the list of people that worked on the *Guidelines*, not one procurement executive was involved in the formation of the *Guidelines*. We believe this is a significant error on the part of ASPRS. We feel that the ASPRS *Guidelines* promotes opinion and does not represent the best interests of the remote sensing community and other constituents. The document makes several unsupported assertions and contradicts itself in a number of areas. It would be the collective opinion of the firms writing this letter that the draft ASPRS *Guidelines* fails to bring sufficient clarity to the procurement process. The cause of producing understandable procurement guidance has not been advanced by this document in its current form.

Specifically, we would direct your attention to the following aspects of the ASPRS *Guidelines* that we find both inappropriate and potentially detrimental to the community as a whole.

- Definitions. Definitions are foundational and critical to any document. Definitions set the tone, biases, agenda, boundaries and interpretation, of the document. As such, definitions have an interpretative impact that ripples through the entire document. Definitions allow all concerned to have the same basis of understanding as to what specific terminology means.

The ASPRS *Guidelines* are no exception. The Definition section needs to be thoroughly vetted and consensus arrived at by all members. In its current state, the Definition section(s) of the ASPRS *Guidelines* would constitute a wandering, mish-mash attempt at creating definitions with biased narrative and commentary mixed in for good measure. That approach does not make for a coherent and understandable document for anyone, let alone its intended audience to which it aspires to bring guidance. Definitional concerns are raised about the distinctions between:

- "authoritative mapping" vs. "referential mapping"
 - "Professional" services vs. "and related geospatial mapping services" vs. "professional geospatial services" vs. "technical services"
 - "geospatial mapping deliverables" vs. "product sales"
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- All Things QBS. While the ASPRS *Guidelines* fails to discuss other legitimate forms of procurement methods, the textual narrative and commentary makes every attempt to persuade the Contracting Officer, Procurement Manager, Purchasing Agent, etc. to use the QBS methodology. The bias of using QBS first and foremost, and if in doubt, still use QBS runs throughout the ASPRS *Guidelines*. The Figure 1 flow chart decision model may be a useful tool, but it suffers under the weight of this bias as it produces QBS outcomes in all scenarios except one.
 - Licensure Requirements. While the ASPRS *Guidelines* acknowledges that the "... procurement of many aspects of professional photogrammetric services are regulated by federal, state, or local laws," it nevertheless concludes and asserts that "Qualifications-

based selection is appropriate for all professional geospatial services and not just services that require a license.” [Emphasis added by ASPRS.]

If the inconsistent treatment and patchwork regulatory environment of licensure requirements across the federal, state, and local government landscape were not daunting enough, the ASPRS *Guidelines* further muddies the water by opining and discussing the NCEES Model Law and Model Rules, the Brooks Act, and QBS relative to the licensure requirements. The initial discussion in this section goes from a very narrow premise of “professional photogrammetric services” to the wide-ranging implications of all the aforementioned factors on professional geospatial services. The discussion in this section does not aide the understanding of Contracting Officers, Procurement Managers, Purchasing Agents and others to make clear and informed decisions.

- Future Technologies. The ASPRS *Guidelines* acknowledge geospatial technologies are rapidly evolving and many tasks previously handled by highly skilled technicians are now being automated and performed by less skilled technicians. That said, the ASPRS *document* suggests that “... the correct and prudent implementation of these new technologies will always require the level of knowledge, expertise, ethical standards, and professional conduct outlined in these *Guidelines*.” That statement, and the overall tone of this section, could be read as professionally insulting, protectionist, and inhibiting innovation.
- Fear, Uncertainty, and Doubt. The ASPRS *Guidelines* unfortunately embeds and raises a specter throughout the document; by not using both QBS methodology for procurement practices and licensed professionals will lead buyers to “potentially affect[ing] public welfare or result in harm to the public if not performed to professional standards.” This type of language “uncertainty” does not advance the cause of providing the intended audience of the ASPRS *Guidelines* with clear and objective criteria upon which to base their decision making process.

We feel that the ASPRS *Guidelines* attempt to define everything in the geospatial disciplines as a “Professional Service” simply because the tools employed may include geospatial technologies. Remote sensing is a very broad discipline that involves all sorts of geospatial technologies, products and services. Specifically, Paragraph X “Specific Examples of Photogrammetric Services”, Subparagraph 3 indicates that georeferenced aerial imagery acquisition employing ABGPS/IMU is a professional service. We disagree with this conclusion. If a specific project for the aerial acquisition is for managing crop production, we would argue that this is not a professional service; if the acquisition supported a detailed engineering design project it should be considered a professional service.

The application of the geospatial service is fundamental to determining whether the service should be considered professional or not. If the application is to support engineering design that impacts public health and safety there is no question the geospatial service should be considered professional and procured by QBS procurement guidelines. If, the geospatial project does not have direct impact on health and safety we believe it is inappropriate to consider it a professional service simply because skilled individuals undertake the work.

Therefore, the end use of the geospatial technology is fundamental in determining if the service is “professional” or not.

We clearly understand that the ASPRS *Guidelines* are not intended to reflect on the state licensure process; however, states do not operate in a vacuum. If the American Society of Photogrammetry and Remote Sensing, the authoritative source of information on the profession, calls a task a professional service it is highly likely that states will look to this document as a source of guidance in determining whether a geospatial service should be considered under state licensure. The broad brush of calling everything that Photogrammetrists and Remote Sensing

specialists do “a professional service” sets a precedent that is unhealthy for the geospatial community.

Conclusion

As written the ASPRS *Guidelines* could be viewed as a continued effort to expand the application of the Brooks Act to include a broader range of “mapping services” that are completely unrelated to the traditionally understood and accepted architectural, engineering, and surveying activities (“A&E Services”). This effort has been previously rejected by both the FAR Council and by the U.S. District Court (E.D. VA) in the MAPPS v. U.S. case.

The firms that participated in writing this letter have all provided ‘edits’ to the ASPRS *Guidelines* which are available to ASPRS on request. Unfortunately, in the final analysis, the ASPRS *Guidelines* represent a conclusion looking for a rationale. It does not represent the best interests of the entire ASPRS membership, and does not advance the cause of providing definitive guidance to its intended audience. We request a formal session with the *Guidelines* panel at ASPRS Baltimore during the spring 2009 conference to discuss steps forward. The participating firms are willing to support the creation of a document focusing on product based procurement. We will deliver a plan to ASPRS on this prior to the Baltimore conference.

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